

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION**

DARREN A. BRITTO, *et al.*,

Plaintiffs,

v.

BUREAU OF ALCOHOL, TOBACCO,
FIREARMS, AND EXPLOSIVES.

Defendant.

No. 2:23-cv-19-Z

**DEFENDANT’S CONSENT MOTION FOR LEAVE TO FILE
SUPPLEMENTAL AUTHORITY**

Pursuant to Local Rule 56.7, Defendant respectfully seeks leave to file the attached supplemental authority in support of Defendant’s Opposition to Plaintiffs’ Motion for a Preliminary Injunction, ECF No. 33. On September 12, 2023, the United States District Court for the District of North Dakota issued an opinion in *Firearms Regulatory Accountability Coalition, Inc. v. Garland*, No. 1:23-cv-024, (D.N.D.), attached hereto as Exhibit 1. In that opinion, the court denied the plaintiffs’ motion to preliminarily enjoin the Bureau of Alcohol, Tobacco, Firearms, and Explosives’ enforcement of the same rule challenged in this litigation, *Factoring Criteria for Firearms With Attached “Stabilizing Braces,”* 88 Fed. Reg. 6,478 (Jan. 31, 2023) (“Rule”). The Court held that plaintiffs had “not shown they are entitled to the extraordinary remedy of preliminary relief” because they had not “demonstrated a substantial likelihood of success on the merits.” *See* Slip Op. at 22. Specifically, the North Dakota District Court explained that: (1) the Rule does not violate the Second Amendment, *see id.* at 10-11, (2) the Rule does not exceed Defendants’ statutory authority, *see id.* at 12-14, (3) the Rule does not violate the rule of lenity, *see id.* at 14-16, and (4) the Rule is not arbitrary and capricious, *see id.* 16-18.

Defendant conferred with Plaintiffs, through counsel, and Plaintiffs consented to Defendant's instant request.

Dated: September 27, 2023

Respectfully submitted,

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BRIGHAM J. BOWEN
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/s/ Michael Drezner

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CERTIFICATE OF SERVICE

I hereby certify that on September 27, 2023, I electronically filed the foregoing document with the Clerk of Court using this Court's CM/ECF system, which will notify all counsel of record of such filing.

/s/ Michael Drezner
MICHAEL DREZNER
Trial Attorney
U.S. Department of Justice

CERTIFICATE OF CONFERENCE

Plaintiffs consent to Defendant's submission of supplemental authority. Pursuant to Local Civil Rule 7.1, undersigned counsel certifies that he conferred with attorney for Plaintiffs Daniel Lennington on September 27, 2023, via email, regarding Defendant's motion for leave to file supplemental authority.

/s/ Michael Drezner
MICHAEL DREZNER
Trial Attorney
U.S. Department of Justice